

Senate Study Bill 3193 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act relating to electronic payment transactions by
2 prohibiting the collection of interchange fees on specified
3 taxes and fees, providing penalties, and including
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 424A.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Electronic payment transaction*" means a transaction
5 in which a person uses a debit card, credit card, or other
6 payment code or device, issued or approved through a payment
7 card network to debit an asset account or use a line of
8 credit, whether authorization is based on signature, personal
9 identification number, or other means.

10 2. "*Interchange fee*" means any fee established, charged,
11 or received by a payment card network for the purpose of
12 compensating the issuer for its involvement in an electronic
13 payment transaction.

14 3. "*Issuer*" means any person who issues a debit card or
15 credit card, or the issuer's agent.

16 4. "*Payment card network*" means an entity that directly,
17 or through licensed members, processors, or agents, provides
18 the proprietary services, infrastructure, and software that
19 route information and data to conduct debit card or credit
20 card transaction authorization, clearance, and settlement, and
21 that a merchant or seller uses in order to accept as a form of
22 payment a brand of debit card, credit card, or other device
23 that may be used to carry out debit or credit transactions.

24 5. "*Settlement*" means the transfer of funds from a
25 customer's account to a seller or merchant upon electronic
26 submission of finalized sales transactions to the payment card
27 network.

28 Sec. 2. NEW SECTION. 424A.2 Interchange fees — limitation.

29 The amount of any tax or fee imposed by state or local
30 government that is calculated as a percentage of an electronic
31 payment transaction amount and listed separately on the payment
32 invoice or other demand for payment, or the amount of any
33 fuel taxes imposed under chapter 452A, shall be excluded from
34 the amount of an interchange fee charged for that electronic
35 payment transaction.

1 **Sec. 3. NEW SECTION. 424A.3 Circumvention prohibited.**

2 It shall be unlawful to alter or manipulate the computation
3 and imposition of interchange fees by increasing the rate or
4 amount of fee applicable to or imposed upon that portion of an
5 electronic payment transaction not attributable to a state or
6 local tax or fee to circumvent the effect of section 424A.2.

7 **Sec. 4. NEW SECTION. 424A.4 Deduction or rebate —**
8 **settlement procedure.**

9 A payment card network shall either deduct the amount of
10 any tax or fee imposed as described in section 424A.2 from the
11 calculation of interchange fees specific to each form or type
12 of electronic payment transaction at the time of settlement
13 or shall rebate an amount of interchange fee proportionate
14 to the amount attributable to the tax or fee. The deduction
15 or rebate shall occur at the time of settlement when the
16 merchant or seller is able to capture and transmit tax or fee
17 amounts relevant to the sale at the time of sale as part of the
18 transaction finalization. If the merchant or seller is unable
19 to capture and transmit tax or fee amounts relevant to the sale
20 at the time of sale, the payment card network shall accept
21 proof of tax or fee amounts collected on sales subject to an
22 interchange fee upon the submission of sales data by the seller
23 or merchant and shall promptly credit the merchant or seller's
24 settlement account.

25 **Sec. 5. NEW SECTION. 424A.5 Enforcement — penalty.**

26 1. The provisions of this chapter are subject to the powers
27 and authority of the attorney general or the attorney general's
28 designee.

29 2. If a court finds in an action brought by the attorney
30 general, or the attorney general's designee, that a person
31 has intentionally violated a provision of this chapter, the
32 person shall be subject to a civil penalty of not less than
33 one thousand dollars nor more than five thousand dollars for
34 each violation. In addition, a person paying interchange fees
35 imposed in violation of this chapter may bring an action at law

1 to recover actual damages. The court may order such equitable
2 relief as it deems necessary, including temporary and permanent
3 injunctive relief.

4 Sec. 6. NEW SECTION. **424A.6 Nonseverability.**

5 In the event that any provision of this chapter or its
6 application is held to be invalid with regard to a federally
7 chartered bank or other financial institution, it shall be
8 held equally invalid with regard to a financial institution
9 licensed by or operating within this state, and to this end the
10 provisions of this chapter are not severable.

11 Sec. 7. NEW SECTION. **537C.1 Interchange fees —**
12 **computation.**

13 The computation of an interchange fee established, charged,
14 or received by a payment card network for the purpose of
15 compensating the issuer for its involvement in an electronic
16 payment transaction, as those terms are defined in section
17 424A.1, shall be governed by the provisions of chapter 424A.

18 Sec. 8. **APPLICABILITY.** This Act is applicable to electronic
19 payment transactions processed on or after July 1, 2012.

20 **EXPLANATION**

21 This bill prohibits the imposition of interchange fees on
22 specified portions of electronic payment transactions.

23 The bill contains several definitions. The bill defines an
24 "electronic payment transaction" to mean a transaction in which
25 a person uses a debit card, credit card, or other payment code
26 or device, issued or approved through a payment card network
27 to debit an asset account or use a line of credit, whether
28 authorization is based on signature, personal identification
29 number, or other means. The bill defines an "interchange fee"
30 to mean any fee established, charged, or received by a payment
31 card network for the purpose of compensating the issuer for
32 its involvement in an electronic payment transaction. The
33 bill defines an "issuer" to mean any person who issues a debit
34 card, credit card, or the issuer's agent. The bill defines
35 "payment card network" to mean an entity that directly, or

1 through licensed members, processors, or agents, provides
2 the proprietary services, infrastructure, and software that
3 route information and data to conduct debit card or credit
4 card transaction authorization, clearance, and settlement, and
5 that a merchant or seller uses in order to accept as a form of
6 payment a brand of debit card, credit card, or other device
7 that may be used to carry out debit or credit transactions.
8 The bill defines "settlement" to mean the transfer of funds
9 from a customer's account to a seller or merchant upon
10 electronic submission of finalized sales transactions to the
11 payment card network.

12 The bill provides that the amount of any tax or fee imposed
13 by state or local government that is calculated as a percentage
14 of the payment amount and listed separately on the payment
15 invoice or other demand for payment, or the amount of any
16 state fuel taxes imposed, shall be excluded from the amount
17 of an interchange fee charged for the purpose of completing
18 an electronic payment transaction. The bill provides that it
19 shall be unlawful to alter or manipulate these provisions by
20 increasing the rate or amount of fee applicable to or imposed
21 upon that portion of an electronic payment transaction not
22 attributable to a state or local tax or fee.

23 The bill's provisions are subject to the powers and
24 authority of the attorney general or the attorney general's
25 designee. The bill provides for a civil penalty if a person
26 has intentionally violated the bill's provisions of not
27 less than \$1,000 nor more than \$5,000 for each violation.
28 Additionally, the bill provides that a person paying
29 interchange fees imposed in violation of this chapter may
30 bring an action at law to recover actual damages, and that the
31 court may order such equitable relief as it deems necessary,
32 including temporary and permanent injunctive relief.

33 The bill specifies procedures for exclusion of taxes or fees
34 from the computation of interchange fees. The bill provides
35 that a payment card network shall either deduct the amount

1 of any tax or fee from the calculation of interchange fees
2 specific to each form or type of electronic payment transaction
3 at the time of settlement, or rebate an amount of interchange
4 fee proportionate to the amount attributable to the tax or fee.
5 The bill provides that the deduction or rebate shall occur at
6 the time of settlement when the merchant or seller is able to
7 capture and transmit tax or fee amounts relevant to the sale
8 at the time of sale as part of the transaction finalization.
9 In the event that the merchant or seller is unable to capture
10 and transmit tax or fee amounts relevant to the sale at the
11 time of sale, such as when the tax or fee is collected at the
12 wholesale level or when a credit or debit card terminal is
13 incapable of capturing and transmitting tax or fee amounts,
14 the bill provides that the payment card network shall accept
15 proof of tax or fee amounts collected on sales subject to
16 an interchange fee upon the submission of sales data by the
17 seller or merchant and promptly credit the merchant or seller's
18 settlement account.

19 The bill provides that in the event that any provision
20 contained in the bill or its application is held to be invalid
21 with regard to a federally chartered bank or other financial
22 institution, it shall be held equally invalid with regard to a
23 financial institution licensed by or operating within Iowa.

24 The bill includes a provision in Title XIII of the Code,
25 governing commerce, indicating that the computation of an
26 interchange fee established, charged, or received by a payment
27 card network for the purpose of compensating the issuer for
28 its involvement in an electronic payment transaction shall be
29 governed by the provisions of Code chapter 424A, as created in
30 the bill.

31 The bill is applicable to electronic payment transactions
32 processed on or after July 1, 2012.